

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

STATE OF MARYLAND)	
<i>Plaintiff,</i>)	
v.)	Case No. C-10-CR-21-000535
NORRIS BERNARD ELLIS)	
<i>Defendant.</i>)	
_____)	

MOTION FOR APPROPRIATE RELIEF

COMES NOW DEFENDANT, Norris Ellis, by and through undersigned counsel and the Law Offices of KURTZ, PETERS & ASSOCIATES LLC, and hereby request this Honorable Court to ORDER the State's Attorney's Office for Frederick County, Maryland to produce and provide potentially exculpatory evidence in their possession and control, that being text messages and communications stored on the alleged victim A.P.'s cell phone, for the following reasons averred:

1. On or about July 19th, 2021 the Defendant was charged with First Degree Rape, First Degree Assault, and Second Degree Assault for an offense that allegedly occurred in the early morning of July 4th, 2021.
2. The Defendant, through counsel, filed for discovery for which the State has taken the position of full compliance.
3. That current defense counsel has been made aware of text messages that were being sent between the alleged victim in this matter and another male on the night in question and at the same time the alleged rape occurred. See attached screen shot that was provided in Discovery.
4. The nature of the texting between the other male and alleged victim show that the unknown male was supposed to be picking A.P. (alleged victim's Initials) up at the bar at the same time or nearly same time the alleged rape took place.
5. Additionally, the texts sent by this male to A.P. state, "IDK (I don't know) if your phone died or you blocked me but I hope you made it home safe. I tried to find you but I'm gonna head home." Please see attached screen shot provided in Discovery.

6. That this last message was sent at 2:19 am on July 4th, 2021, by the unknown male.
7. That the timing and nature of the text messages are potentially exculpatory as to another individual who may have harmed or been involved in any alleged attack, or at least, a potential reason why A.P. may have embellished or falsely accused this Defendant of Rape.
8. That the cell phone is currently in the property room with all other evidence to be used in the upcoming jury trial and only the State has access to this exculpatory evidence.
9. The Defendant is asking this Court to order the State of Maryland to either i) allow defense counsel to bring their own expert to download the contents of the cellphone so they can look at phone logs, data, and text messages for the period of July 3rd through July 4th of 2021, for potential exculpatory evidence or ii) ORDER the State of Maryland to have their own IT or Police cell phone expert download all texts, data, and phone logs for the temporal period of July 3rd and 4th of 2021, and produce it for defense counsel.
10. That counsel for the Defendant met with members of the prosecution team, in person (counsel for the Defendant operates out of the Florida office) on February 13th and requested this particular discovery but was told by the State after the meeting, they would only provide the name of the male whom she was talking to, and not the entirety of their conversation nor any other conversations she may or may not have been having during the period requested.
11. This request is limited to a finite temporal period of less than 48 hours and for which the Defendant has no ability of getting this potentially exculpatory evidence any other way.

For the aforementioned reasons, the Defendant humbly prays this Honorable Court order the State of Maryland to produce the requested Discovery material, in a timely manner so that defense counsel have time to investigate any potentially exculpatory information contained in said Brady material.

Respectfully submitted,

KURTZ, PETERS & ASSOCIATES LLC

/s/Benjamin M. Kurtz

By:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7TH day of April 2022, a copy of the foregoing Motion for Appropriate Relief was served via MDEC on the State's Attorney's office for Frederick County, Maryland.

/s/ Benjamin M. Kurtz

Benjamin M. Kurtz, Esquire